

Remarks

1. Summary of the Office Action

In the office action mailed June 11, 2008, the Examiner rejected claims 1, 3, 4, 7-10, 13, 14-15, 19, 25, and 26 under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent No. 6,078,957 (Adelman) in view of U.S. Application Pub. No. 2002/0152446 (Fleming). Further, the Examiner rejected claims 2, 6, 12, 17, 20, 22, and 24 under 35 U.S.C. § 103(a) as being allegedly obvious over Adelman in view of U.S. Patent No. 6,212,175 (Harsch), the Examiner rejected claims 5 and 11 under 35 U.S.C. § 103(a) as being allegedly obvious over Adelman and Fleming in view of U.S. Application Pub. No. 2004/0230661 (Rashid), the Examiner rejected claim 16 under 35 U.S.C. § 103(a) as being allegedly obvious over Adelman and Fleming in view of RFC 2543, the Examiner rejected claim 18 under 35 U.S.C. § 103(a) as allegedly obvious over Adelman and Fleming in view of U.S. Patent No. 6,014,694 (Aharoni), the Examiner rejected claim 21 under 35 U.S.C. § 103(a) as being allegedly obvious over Adelman and Fleming in view of Harsch and Rashid, and the Examiner rejected claim 23 under 35 U.S.C. § 103(a) as being allegedly obvious over Adelman and Fleming in view of Harsch and Aharoni.

2. Status of the Claims

Pending are claims 1-17 and 19-26, of which claims 1, 4, 9, 14, 19, 20, 25, and 26 are independent and the remainder are dependent.

3. Response to the Rejections

Independent claims 1, 4, 9, 14, 19, 25, and 26 stand rejected as being allegedly obvious over Adelman in view of Fleming and independent claim 20 stands rejected as being allegedly obvious over Adelman in view of Harsch.

Under M.P.E.P. § 2142, in order to establish a *prima facie* case of obviousness over a combination of references, the Examiner must articulate reasoning with rational factual underpinnings to support the legal conclusion of obviousness.

In rejecting claims 1, 4, 9, 14, 19, 20, 25, and 26, the Examiner did not establish *prima facie* obviousness, because the alleged facts on which the Examiner relied as a necessary basis for the obviousness conclusion were incorrect. In Response After Final filed December 11, 2007, and the Reasons for Review of Final Rejection filed February 15, 2008, Applicant explained that Adelman fails to disclose or suggest the claim feature of sending the determined keepalive period *in a response to* a received keepalive message. The Examiner, however, has not set forth any reasonable or factual basis as to how Adelman teaches this claimed feature and the Examiner has not asserted or set forth any reasoning as to how this innovative feature would follow from the limited teaching of any of the cited art.

Applicant's argument remains that Adelman does not teach or suggest the feature of sending the keepalive period *in a response to* a received keepalive message. Given that the Examiner's factual basis for rejecting these claims was incorrect, it follows that claims 1, 4, 9, 14, 19, 20, 25, and 26 should be allowed.

In particular, in rejecting claims 1, 4, 9, 14, 19, 20, 25, and 26, the Examiner relied exclusively on Adelman as allegedly teaching the claim feature of sending the selected keepalive period to the client station *in a response to* the received keepalive message. However, Adelman does not disclose this feature. Therefore, the Examiner's reliance on Adelman for this proposition is erroneous and thus fails to justify the Examiner's conclusion of obviousness.

The Examiner asserted that Adelman discloses at column 8, lines 31-33, column 13, line 42 to column 14, line 13, and Figure 8C, item 851, the claim feature of sending the selected

keepalive period to the client station in a response to the received keepalive message. However, a review of these portions and the remainder of Adelman reveals that, contrary to the Examiner's indication, Adelman fails to disclose the feature of sending the selected keepalive period to the client station in a response to the received keepalive message.

At column 8, lines 31-33, column 13, line 42 to column 14, line 13, and Figure 8C, Adelman teaches that master and client devices are each arranged to periodically send keepalive message to each other. When a client sends a keepalive message to the master, the master determines packet loss and establishes a new keepalive interval. However, Adelman does not teach that the master sends that new keepalive interval *in a response to* the keepalive message received from the client. Rather, Adelman clearly suggests that the master *periodically* sends out a master keepalive message containing the adaptive keepalive interval. Adelman does not disclose or suggest anything with respect to the periodic keepalive message sent by the master being conveyed in a response to the client's keepalive message. In fact, the sections of Adelman cited by the Examiner clearly teach that keepalive message sent by the master are themselves sent periodically (see Adelman, column 8, lines 31-38), which is inconsistent with the feature of sending the message *in response to* keepalive message received from clients. Therefore, the Examiner's assertion that Adelman discloses the claim feature of sending the selected keepalive period to the client station *in a response to* the received keepalive message is incorrect as a basic matter.

Because the Examiner based the obviousness rejection of claims 1, 4, 9, 14, 19, 20, 25, and 26 on the incorrect assertion that Adelman discloses the claim feature of sending the selected keepalive period in a response to the received keepalive message, the Examiner's obviousness rejection of these claims lacks the sound factual underpinnings required by M.P.E.P. § 2142 to

establish *prima facie* obviousness. Therefore, the Examiner did not make out a *prima facie* case of obviousness of claims 1, 4, 9, 14, 19, 20, 25, and 26, and so claims 1, 4, 9, 14, 19, 20, 25, and 26 should be allowed.

Without conceding the Examiner's additional assertions regarding the claims, Applicant submits that dependent claims 2-3, 5-8, 10-13, 15-17, and 21-24 are allowable as well for at least the reason that they depend from allowable claims 1, 4, 9, 14, 19, 20, 25, and 26.

4. Conclusion

For the foregoing reasons, Applicant submits that all of the pending claims are allowable, and Applicant therefore respectfully requests favorable reconsideration and allowance.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

**McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP**

Dated: September 9, 2008

By: /Lawrence H. Aaronson/
Lawrence H. Aaronson
Reg. No. 35,818